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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,234	11/19/2001	William S. Nevin	NEVIN-0001	8116
21261	7590	09/08/2006	EXAMINER	COBANOGLU, DILEK B
ROBERT PLATT BELL REGISTERED PATENT ATTORNEY P.O. BOX 310 AURORA, NY 13026			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/988,234	NEVIN ET AL.
	Examiner	Art Unit
	Dilek B. Cobanoglu	3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 June 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6,8,9,11-19,21,22 and 24-26 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6,8,9,11-19,21,22 and 24-26 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/19/2001</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed on 06/15/2006. Claims 1-6, 8-9, 11-19, 21-22 and 24-26 have been amended and are still pending. Claims 7, 10, 20 and 23 have been cancelled.

Claim Rejections - 35 USC § 101

2. The rejection of the claims under 35 U.S.C. § 101 is hereby withdrawn due to the amendment filed 06/15/2006.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-6, 8-9, 11-19, 21-22 and 24-26 rejected under 35 U.S.C. 103(a) as being unpatentable over Joao (U.S. Patent No. 6,283,761 B1) in view of Mohlenbrock et al. (hereinafter Mohlenbrock) (U.S. Patent No. 5,018,067).

A. Claim 14 has been amended to now recite a method of providing health care information comprising the steps of:

i. defining a patient population (Joao; col. 14, lines 22-32);

- ii. generating patient interview data including at least one or more of patient history information and patient symptom information (Joao; col. 16, lines 33-65 and col. 29, lines 28-35),
- iii. generating patient encounter information, including one or more of symptom information, treatment information, prescription information and diagnosis information (Joao; col. 16, lines 33-65, col. 23, lines 48-60 and col. 24, lines 12-20),
- iv. combining and compressing patient interview data into a health summary record (Joao; col. 25, lines 25-53), and
- v. generating customized medical reports from the health summary record for one or more of a patient, an attending physician and an insurance provider (Joao; col. 16, lines 38-65, col. 25, lines 25-53, line 63 to col. 26, line 6).

Joao fails to expressly teach the combining and compressing patient interview data into a health summary record comprising standardized codes indicating at least one or more of patient symptoms, patient treatments and patient condition, per se, since it appears that Joao is more directed to generating a diagnosis and treatment report indicating patient's diagnosis and treatment. However, this feature is well known in the art, as evidenced by Mohlenbrock.

In particular, Mohlenbrock discloses combining and compressing patient interview data into a health summary

record comprising standardized codes (ICD codes)
indicating at least one or more of patient symptoms, patient
treatments and patient condition (Mohlenbrock; col.5, lines
14-35).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Mohlenbrock with the motivation of necessary data is readily available in the form to be directly used in making the estimate on the severity of patients' illnesses (Mohlenbrock; col.5, lines 3-14).

- B. Claim 15 has been amended to now recite the method of providing health care information of claim 14, further comprising the steps of: assigning a health risk score to each patient based upon the health summary record. (Joao; col. 17, lines 25-61 and col. 25, lines 40-53).
- C. Claim 16 has been amended to now recite the method of providing health care information of claim 15, further comprising the steps of: analyzing patient health summary records and assigning a patient to a disease management track and indicating the disease management track on the customized medical report generated for an attending physician. (Joao; col. 25, lines 40-62).
- D. Claim 17 has been amended to now recite the method of providing health care information of claim 16, wherein said disease management track comprises a medication recommendation program for the attending

physician and the customized medical report generated for the attending physician includes the medical recommendation program. (Joao; col. 17, lines 25-31 and col. 26, lines 20-38).

E. Claim 18 has been amended to now recite the method of providing health care information of claim 17, wherein said disease management track comprises a treatment recommendation program for an attending physician and the customized medical report generated for the attending physician includes the treatment recommendation program. (Joao; col. 7, lines 7-15, col. 17, lines 25-31 and col. 26, lines 20-38).

F. Claim 19 has been amended to now recite the method of providing health care information of claim 18, wherein said disease management track comprises an education program for a patient and the customized medical report comprises a customized medical report generated for a patient, including the education program. (Joao; col. 18, lines 50-58).

G. Claim 21 has been amended to now recite the method of providing health care information of claim 14, wherein said customized medical reports include medication non-compliance reports generated from patient medication data and prescription claim data to indicate whether a patient has purchased a prescribed medication. (Joao; col. 27, lines 2-8, col. 16, lines 38-65 and col. 34, lines 15-29).

H. Claim 22 has been amended to now recite the method of providing health care information of claim 14, wherein said customized medical reports comprise patient temporary condition reports, indicating temporary

medical conditions of a patient, and patient permanent condition reports, indicating permanent conditions of a patient. (Joao; col. 16, lines 38-65 and col. 25, lines 40-53).

I. Claim 24 has been amended to now recite the method of providing health care information of claim 14, wherein said customized medical reports include doctor reports summarizing patient medical history and medical condition. (Joao; col. 25, line 63 to col. 26, line 6).

J. Claim 25 has been amended to now recite the method of providing health care information of claim 14, wherein said customized medical reports include medical provider reports summarizing patient medical claim history and medical claim status (Joao; col. 25, line 63 to col. 26, line 6).

K. Claim 26 has been amended to now recite the method of providing health care information of claim 14, further comprising the steps of:

- i. downloading customized medical reports to a personal digital assistant (Joao; col. 14, lines 49-58, col. 14, line 59 to col. 15, line 5 and col. 25, line 54 to col. 26, line 6);
- ii. uploading patient data entered by a physician into a personal digital assistant from the personal digital assistant (Joao; col. 5, lines 34-40, col. 14, lines 49- 58 and col. 25, line 54 to col. 26, line 6); and
- iii. integrating such data into health summary records (Joao; col. 3, lines 34-45).

L. As per claims 1-6, 8-9, 11-13, they are system claims, which repeat the same limitations of claims 14-19, 21-22 and 24-26, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the combination of teachings of Joao and Mohlenbrock discloses the underlying process steps that constitute the methods of claims 14-19, 21-22 and 24-26, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 1-6, 8-9, 11-13 are rejected for the same reasons given below for claims 14-19, 21-22 and 24-26.

Response to Arguments

5. Applicant's arguments with respect to claims 1-6, 8-9, 11-19, 21-22 and 24-26 have been considered but are moot in view of the new ground(s) of rejection.

6. In response filed on 06/15/2006 at pages 13-16, Applicant makes the following arguments:

A. Joao does not teach "A unique method of acquiring and processing the information to create a format that is understandable to a patient and simultaneously useful to the physician".

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., acquiring and processing the

information to create a format that is understandable to a patient and simultaneously useful to the physician) are not recited in the rejected claim(s). The amended claims state "generating customized medical reports for one or more of a patient, an attending physician and an insurance provider". Examiner respectfully submits that the combination of Joao and Mohlenbrock have overcome the rejection of the claim as explained above in claim 14. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

B. Joao does not teach "The creation of this unique summary allows targeted health information to be directed to the patients and physicians either directly or through links to the WEB. This feature is not addressed in the Joao Patent".

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., The creation of this unique summary allows targeted health information to be directed to the patients and physicians either directly or through links to the WEB) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

C. Joao does not teach “Joao Patent does not describe the health summary record nor does it describe any practical method of turning a huge collection of randomly acquired data into useful information”
Examiner respectfully submits that Joao Patent teaches a diagnosis and a treatment report as cited above in the rejection of claim 14. These reports include a list of possible diagnoses of the patient's condition, respective probabilities of occurrence, statistical information, outline and prescribe treatment for the single diagnosis, possible drug and treatment interactions.

D. Joao does not teach “The health summary record may be used to create a medical report for an attending physician, including a health risk score, disease management track, medication recommendation and treatment recommendation. A patient report may also be generated including patient education information”

Examiner respectfully submits that Joao Patent teaches a diagnosis and a treatment report as cited above in the rejection of claim 14. These report have been prepared using the collected and/or recorded patient information. Examiner considers that the possible diagnoses on the diagnosis report along with respective probabilities of occurrence and statistical information corresponding provides a risk score for each patient. The limitation of “disease

management track" is explained in the rejection of claim 16 above that is on col. 25, lines 54-62 the Joao Patent analyzes patient health summary records and indicating the disease management track on the customized medical report generated for an attending physician. The limitations "medication and treatment recommendations" are explained in the rejections of claims 17 and 18; therefore on col. 26, lines 20-38 of Joao Patent teaches these limitations. Joao describes the limitation of "patient education information" on col. 18, lines 50-58 which the general information is provided to any user. Joao continues on col. 26, lines 10-38 that diagnostic and/or treatment reports contain health and wellness information.

E. Joao does not teach "Generating patient medication non-compliance reports, which indicate to a physician whether or not a patient has indeed filled their prescription."

Examiner would like to submit that the Joao Patent teaches this limitation as explained above in the rejection of claim 21, such as on col. 34, lines 15-29, Joao teaches notification to any respective party in response to the occurrence of an event, happening, and/or occurrence. Examiner considers that "whether a patient has purchased a prescribed medication" can be notified to the provider using this system.

F. Joao does not teach “Creating entries for temporary and permanent medical conditions.”

Examiner would like to submit that the Joao Patent teaches this limitation as explained above in the rejection of claim 22, on col. 16, lines 38-65, Joao teaches a database which contains all the temporary and permanent information about the patient, such as medical history, insurance information, past treatments, symptoms, lifestyle information. The diagnosis and treatment reports would then include both the temporary and permanent information of the patient.

G. Joao does not teach “Customized medical reports include doctor reports summarizing patient medical history and medical condition.”

Joao teaches a diagnosis and a treatment report, which include diagnosis and treatment information pertaining to the patient’s condition. Therefore Examiner considers that these reports contain doctor reports summarizing patient medical history and medical condition since they contain diagnosis and treatment information.

H. Joao does not teach “Customized medical reports include medical provider reports summarizing patient medical claim history and medical claim status.”

Joao teaches a diagnosis and a treatment report, which include diagnosis and treatment information pertaining to the patient’s condition. Therefore Examiner considers that these reports contain

medical provider reports summarizing patient medical claim history and medical claim status.

I. Joao does not teach "Downloading medical reports to a PDA and then uploading data using the PDA to update a health summary record."

Joao teaches a provider computer, a patient computer, a payer computer and/or an intermediary computer on col. 14, lines 49-58, and any one of these computers can be a personal digital assistant. These computers can transmit information to each other as well as receive information from each other. Joao continues on col. 25, lines 54-62, that the central processing computer will transmit the diagnostic report and/or treatment report to the provider's computer (PDA). And col. 25, line 63 to col. 26, line 6, Joao teaches the medical doctor will transmit the final diagnosis and treatment plan, including the prescribed diagnosis and treatment plan to the central processing computer (PDA).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3626

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit 3626
08/22/2006

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